IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF DECEMBER,
TWO THOUSAND AND SIX

PRESENT

**THE HON'BLE MR JUSTICE J.CHELAMESWAR**
**AND**
**THE HON'BLE MR JUSTICE D.APPA RAO**

**WRIT PETITION No.25530 OF 2006**

Between:

M/s.Sri Vignesh Enterprises,
Vijayawada, rep. by its Managing Partner,
Mr.D.Veeraraghavaiah.

**..... PETITIONER**

AND

The Assistant Commercial Tax Officer,
Krishnalanka Circle, Vijayawada,
And another.

**....RESPONDENTS**

**THE HON'BLE MR JUSTICE**
**J.CHELAMESWAR**
**AND**
**THE HON'BLE MR JUSTICE**
**D.APPA RAO**

**WRIT PETITION No.25530 OF 2006**

**O R D E R**
**(Per Sri Justice J.Chelameswar)**

**The petitioner is a partnership firm and a registered dealer on the rolls of the first respondent under the A.P. General Sales Tax Act and Central Sales Tax Act, carrying on business of running of hotel with lodging facilities. For the purposes of construction of the hotel, the petitioner purchased various items and some of them were purchased outside the State of Andhra Pradesh. Insofar as the items which were purchased outside the State of Andhra Pradesh are concerned, the petitioner purchased against the C-Form under Central Sales Tax Act and also the certificate contemplated under Section-8(3) of CST Act. Such a facility is available to the dealer, who duly complies with the requirements of Section-8 of the CST Act. However, the first respondent by an order dated 22.03.1999 levied penalty of Rs.7,95,042/- on the ground that there was misuse of Form-C declaration made by the petitioner. Aggrieved by the same, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner. The Appellate Deputy Commissioner by order dated 10.06.1999 dismissed the said appeal. Challenging the same, the petitioner carried the matter in a further appeal to the Sales Tax Appellate Tribunal in T.A.No.677 of 1999 and the said appeal was dismissed on 29.03.2006. Aggrieved by the same, the petitioner preferred revision by way of TRC No.79 of 2006 before this Court, which is pending.**

**The present writ petition is filed praying that during the pendency of TRC No.79 of 2006, the recovery of penalty be stayed as it was held by a Full Bench of this Court in a decision reported in PENGVIN TEXTILES LIMITED, HYDERABAD V/s. STATE OF ANDHRA PRADESH (29 APSTJ 244) that this Court while exercising the revisional jurisdiction does not have the requisite authority to grant an interim order either staying the collection of tax or penalty, which is the subject matter of the revision. It was also held by another Division Bench of this Court in SRINIVASA PICTURE PALACE, DARSI, PRAKASAM DISTRICT V/s. ENTERTAINMENT TAX OFFICER, DARSI (31 APSTJ 74) that in an appropriate case, this Court can grant interim order during the pendency of revision in exercise of the power under Article 226 of the Constitution of India.**

**It is stated by the learned counsel for the petitioner that in the instant case, the petitioner has already paid more than 50% of the penalty levied and the maximum penalty leviable under the Act, has already been levied on the petitioner.**

**Heard the learned Government Pleader.**

**In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to take any coercive steps for recovery of the balance amount of penalty from the petitioner during the pendency of TRC No.79 of 2006**

**With the above direction, the writ petition is disposed of.**

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**JUSTICE J.CHELAMESWAR**

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**JUSTICE D.APPA RAO**

**11th DECEMBER, 2006**
**PGS**

**THE HON'BLE MR JUSTICE**
**J.CHELAMESWAR**
**AND**
**THE HON'BLE MR JUSTICE**
**D.APPA RAO**

**WRIT PETITION No.25530 OF 2006**
**(Per Sri Justice J.Chelameswar)**

**11TH DECEMBER, 2006**